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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,253	08/18/2004	Iwan Roland Rasa		3909
7590	11/21/2006			
Rasa Iwan Zollhausstrasse 16 Pfyn, CH-8505 SWITZERLAND			EXAMINER PRONE, JASON D	
			ART UNIT 3724	PAPER NUMBER

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/505,253	RASA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jason Prone	3724	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The specification and claims are replete with English language errors.

#### ***Election/Restrictions***

1. Claims 4-5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 18 September 2006.

#### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if

the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Specification***

2. The disclosure is objected to because of the following informalities: On page 10 line 3, the word "sho3wn" should be replaced with "shown". On page 14 line 12, the word "bein" should be replaced with "being".

Appropriate correction is required.

### ***Drawings***

3. The drawings are objected to because in Figures 5 and 6, reference numeral "1" points to both Figures. Also, in Figures 7-10, reference numeral "1" points to all 4 Figures. Each Figures needs a separate reference numeral "1" due to the fact that if the drawing are separated, each Figure will still have that label. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

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the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: On line 32 of page 8, item "B". On page 9 lines 1 and 2, Items "L" and "H". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

5. The claims are full of English language errors. For example, claim 1 lines 8-9, the phrase "gripping surfaces are in a second predetermined distance" should be replaced with "gripping surfaces are at a second predetermined distance".

6. Also, terms are not used consistently throughout the claims. For example the term lateral gripping surface is referred to, in the claims, as "gripping surface" and "lateral surface". Applicant needs to choose a single name and only use that name.

7. Claims 13 and 26 are objected to because of the following informalities: In claim 13, the phrase "the region" should be replaced with "a region" to avoid antecedent basis issues. In claim 26, the phrase "means forming an axle on each one of its ends to define a pendulum axis" should be replaced with "a means for defining a pendulum axis on each one of its ends". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to lines 6-8 of claim 1, the phrase "said first end of each gripping surface being connected to one of the ends of said cross-plate" is unclear. Using Figures 1 and 2, the first end of the gripping surface would be the area by item 11 in Fig. 1 or the area by item 8 in Fig. 2. The crosspiece is closer to the second end than it is to the first end. It is unclear how the first end of the gripping surface connects to an end of the crosspiece. (Claim 20 has the same issues).

With regards to lines 14-16 of claim 1, the phrase "U-shaped holder having two legs...and an intermediate portion" is unclear. Claim 1 previously discloses a crosspiece and two lateral gripping surfaces. It is unclear if the "two legs" and "the intermediate Portion" are the same structure as the two lateral gripping surfaces and

crosspiece respectively or if they represent some other structure. (Claim 20 has the same issues).

With regards to lines 2-3 of claim 7, the phrase "crosspiece interconnects said lateral gripping surfaces between said first and second ends" contradicts claim 1's disclosure of "said first end of each gripping surface being connected to one of the ends of said cross-plate" (see above). Claim 7's disclosure appears to an accurate description but goes against what has already been stated in claim 2.

Claim 14 goes against what is previously disclosed in claim 1. Claim 1 discloses "a peeling blade having two ends, extending between said second ends of said lateral gripping surfaces and being connected to them". Basically, both ends of the blade are connected to the second ends of the gripping surfaces. It is not clear how both ends could be connected to the second ends when the ends of the blades are in different planes.

Claim 18 is unclear. The crosspiece makes up the first total area, the gripping surfaces make up the second total area, and the crosspiece and the gripping surfaces makeup the U-shape. How can the U-shape have a smaller area than the first or second total area?

10. Claim 19 recites the limitation "said pre-determined length of said substantially u-shaped holder" on lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

11. Claims 22 and 26 recite the limitation "said axle means" on lines 4 and 14 respectively. There is insufficient antecedent basis for this limitation in the claim.

Applicant should note that the limitations such as "bearing means" (claim 20), "means forming an axle" (claim 26), and "axle means" (claim 26) are not in compliance with the Supplemental Guidelines published in the Official Gazette on July 25, 2000. Such limitations cannot be used to invoke 35 USC 112, 6<sup>th</sup> paragraph, and have therefore been given their broadest reasonable interpretation, without considering equivalence.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-3, 6-9, 11-21, 24-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Yonezawa (5,865,110).

Claims 1-3, 6-9, and 11-19:

In regards to claim 1, Yonezawa discloses the same invention including a crosspiece having two ends and presenting a first total area (7), two lateral gripping surfaces having first and second ends at a first predetermined distance along a gripping surface axis (2a and 2b), said first ends of each gripping surface being connected to one of the ends of the crosspiece so that the gripping surfaces are at a second predetermined distance (Fig. 2), the gripping surfaces present a second total area (2a+2b), the two lateral gripping surfaces and the connecting crosspiece forming a substantially U-shape holder of a predetermined height (Fig. 4), the U-shaped holder



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having two legs (2a and 2b) and an intermediate portion interconnecting the legs (7), a peeling blade (3) having two ends extending between the second ends of the gripping surfaces and being connected to them (3a and 3b), the peeling blade having a leading edge for peeling (33) and a trailing edge (32), and the peeler is shorter in the peeling direction than said second predetermined distant (Fig. 1).

In regards to claims 2 and 3, Yonezawa discloses the crosspiece extends transversely to the peeling direction (7) and the crosspiece comprises a display surface (Fig. 2).

In regards to claims 6-8, Yonezawa discloses the crosspiece extends above the peeling blade (Fig. 3) and the crosspiece interconnects the gripping surfaces at the center between the first and second ends (Fig. 2).

In regards to claims 9 and 11, Yonezawa discloses the lateral surfaces and the crosspiece are integrally formed (Fig. 3) and are formed of plastic (column 2 lines 55-56).

In regards to claims 12-14, Yonezawa discloses each of the lateral surfaces comprise recessed gripping surfaces (1c), the recessed gripping surfaces are in the region of the first ends opposite the second end (Fig. 1), and the peeling blade is inclined relative to the peeling plane that the lead and trailing edges are in different planes ( $\theta$ )

In regards to claims 15-19, Yonezawa discloses the distance between the gripping surfaces is larger than the height and the first predetermined distance (Figs. 1

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and 4), the first total area is larger than the second total area (Fig. 1), the U-shape has a small area (Fig. 4),

Claims 20, 21, 24, and 25:

In regards to claim 20, Yonezawa discloses the same invention including a crosspiece having two ends (7), two lateral gripping surfaces having a first end and a second end (2a and 2b), the first end of each gripping surface being connected to one of the ends of the crosspiece so that the gripping surfaces are at a predetermined distance (Fig. 4), the two gripping surfaces and the crosspiece forming a substantially u-shaped holder having legs and a interconnecting intermediate portion (Fig. 4), a peeling blade having two ends between and connected to the second ends of the gripping surfaces (3), the blade comprising a bearing means on each one of its ends to define a pendulum axis supported in the gripping surfaces (3a and 3b), each of the bearing means being pivotally connected to one of the second ends of the lateral surfaces (3a and 3b), and the peeler is shorter in the peeling direction than said second predetermined distant (Fig. 1).

In regards to claim 22, Yonezawa discloses the bearing means comprise an axle on each end (3a and 3b) and each of the gripping surfaces comprise a pivot bearing surface (Fig. 1).

In regards to claims 24 and 25, Yonezawa discloses the legs comprise each a bearing surface for the axels (Fig. 1) and the crosspiece extends parallel to the blade (Fig. 4).

Claim 26:

Yonezawa discloses the same invention including two lateral surfaces spaced from one another each having a predetermine length thereby have two opposite ends (2a and 2b), a first end of each lateral surface presenting a bearing surface (3a and 3b) while a second end comprises a recessed gripping surface (1c), a peeling blade having two ends extending between the second ends of the lateral surfaces and being connected to them (3), the peeling blade comprising means for forming an axle on each one of its ends defining a pendulum axis (3a and 3b), each of the axle means being pivotally connected to the second ends of the lateral surfaces (Fig. 1), and the peeler is shorter in the peeling direction than said second predetermined distant (Fig. 1).

Claims 27-34:

In regards to claims 27 and 31, Yonezawa discloses the same invention including two lateral gripping surfaces spaced from one another (2a and 2b), a peeling blade having two ends (3), the blade extending between the gripping surfaces and being connected to them (Fig. 1), and the blade having a leading edge and a trailing edge (32 and 33).

In regards to claims 28-30 and 32-34, Yonezawa discloses an angle between  $10^{\circ}$  and  $15^{\circ}$  is formed between the longitudinal axis of the blade and an axis transverse the peeling direction ( $\theta$ ).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 10, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa in view of De Vault (2,106,796). Yonezawa discloses the invention including the gripping surfaces are formed as to be capable of being clamped between a thumb and at least one finger (2a and 2b).

However, Yonezawa fails to disclose the lateral surfaces and crosspiece are made of metal, the axle means project beyond the pivot bearing means so as to be engagable by the thumb and finger, and an abutment means for limiting pivoting of the blade.

De Vault teaches that it is old and well known in the art of peelers to incorporate lateral surfaces and a crosspiece that are made of metal (page 2 lines 26-30), the axle means project beyond the pivot bearing means so as to be engagable by the thumb and finger (39), and an abutment means for limiting pivoting of the blade (14). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Yonezawa with additional peeler structure, as taught by De Vault, to allow for a stronger and more efficient peeling apparatus.

### ***Conclusion***

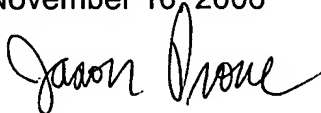
16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cromwell, Castello, Aiken, Lilpakka, Lofgren, Hall, Schweikert, De Vault ('813), Deutschmann, Neveu, Rasa, Kiyotoshi, and Rasa et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 7:00-4:30, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 16, 2006

A handwritten signature in black ink, appearing to read "Jason Prone", written in a cursive style.

Patent Examiner  
Jason Prone  
Art Unit 3724  
T.C. 3700